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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/608,912      | 06/27/2003  | Steven J. Winick     | H0003859 (16131)    | 7055             |

128 7590 09/16/2005

HONEYWELL INTERNATIONAL INC.  
101 COLUMBIA ROAD  
P O BOX 2245  
MORRISTOWN, NJ 07962-2245

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| EXAMINER |
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NGUYEN, QUYNH H

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2642

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                               |  |
|------------------------------|-------------------------------|-------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/608,912 | Applicant(s)<br>WINICK ET AL. |  |
|                              | Examiner<br>Quynh H. Nguyen   | Art Unit<br>2642              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7-8, and 10 is/are rejected.
- 7) ☒ Claim(s) 3,5-6,9, and 11-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4, 7-8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheffer (U.S. Patent 5,884,184).

As to claims 1 and 7, Sheffer teaches the steps of: scanning available cellular control channels (col. 7, lines 40-42; col. 3, lines 62-66) and measuring the signal strength of each cellular control channel (col. 7, lines 43-48); selecting multiple forward control channels having a signal strength below a preselected threshold and eliminate those control channels and continue to selection the remaining multiple control channels (col. 8, lines 41-59; col. 4, lines 19-25) which is verified as being available for the assigned carrier to report a status of the fire alarm system (col. 1, lines 5-7; col. 2, lines 34-37 and lines 47-49; col. 3, lines 3-6; col. 5, lines 1-12); transmitting a cellular radio message on the status of the fire alarm system over either of the cellular control channel with the strongest signal strength or the cellular control channel with the second strongest signal strength (col. 4, lines 10-17). Therefore it would have been obvious to one of ordinary skill in the art that selecting a cellular control channel with the strongest

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signal strength and second strongest signal strength since eliminating the control channels having signal strength below a preselected threshold.

As to claims 2 and 8, Sheffer teaches developing a channel list in which the cellular control channels (col. 3, line 66 through col. 4, line 2) are sorted and classified according to signal strength (col. 4, lines 4-10 - *where Sheffer discussed selecting a control channel based on a comparison of the stored preselected criteria or characteristics, for example sorted according signal strength*).

As to claim 4, Sheffer teaches repeating and selecting a cellular control channel with the strongest signal strength until the last available channel is found (col. 8, lines 44-59).

Claim 10 is rejected for the same reasons as discussed above with respect to the third limitation of claim 1.

### ***Allowable Subject Matter***

3. Claims 3, 5-6, 9, and 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

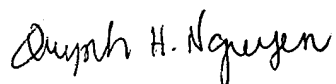
4. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh H. Nguyen whose telephone number is 571-272-7489. The examiner can normally be reached on Monday - Thursday from 6:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Quynh H. Nguyen**  
September 14, 2005